IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No. 9531 of 2003

Between:

Asilametta Junction to Visakhapatnam Railway Station Road

Buildings Owners' Welfare Association, Visakhapatnam,

Rep.by its President Sri K.S.Murthy, s/o. late K.Sanyasi Naidu.

..... PETITIONER

AND

The Commissioner, Visakhapatnam Municipal Corporation,

Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or a direction particularly a writ in the nature of mandamus directing the respondent herein not to demolish or otherwise interfere with the premises of the members of the petitioner Association without following the due process of law and further declare that the action of the respondent in demolishing the structures of the members of the petitioner Association without following the due process of law as illegal and unconstitutional and further direct the respondent therein to pay compensation at the market rate for the property that has been illegally demolished in the interest of justice.

Counsel for the Petitioner : MR.K.V.SUBRAMANYA NARASU

Counsel for the Respondent : None.

The Court made the following :

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ORDER :

The members of petitioner Association alleges that they are the owners of the various premises situated on the right side of the road leading from Asilametta Junction to Visakhapatnam Railway Station. They filed this writ petition alleging that on 21.4.2003 the respondents and their staff came to the locality and demolished the compound walls, structures, stair cases and portions of buildings belonging to the members of the petitioner Association for the purpose of widening the road. Therefore, the petitioners submit that any such action without due process of law under the provisions of the Hyderabad Municipal Corporations Act, 1955 or the Land Acquisition Act, 1894 or other laws is arbitrary and illegal.

Heard learned counsel for the petitioners and learned Standing Counsel for the respondent – Municipal Corporation.

In **P.Lakshmana Rao v. Executive Officer,** a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated by my learned brother, Sri Justice B.Sudershan Reddy in **M.Madhavi Latha v. Rajendranagar Municipality**. The principles laid down by the Division Bench are as follows.

(1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

(2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any, from the occupants. On receipt of such

objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The writ petition is disposed of as above directing maintenance of status quo as on today. No costs.

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(V.V.S. RAO, J.)

14-10-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Visakhapatnam Municipal Corporation,

Visakhapatnam.

2. 2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.9531 of 2003

14-10-2004.

(Msr)